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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,751	12/30/2000	Alan Rudnick	38021.010000	9595

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EXAMINER

GRAYSAY, TAMARA L

ART UNIT PAPER NUMBER

3623

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,751

Applicant(s)

RUDNICK, ALAN

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:
 - a. They fail to comply with 37 CFR 1.84(m) because the shading (Fig. 3) does not aid in understanding the invention and reduces legibility.
 - b. They fail to comply with 37 CFR 1.84(u)(2) because the view number (Fig. 3) is not larger than the numbers used for reference characters.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the

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specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In the present application, claim 7 is directed to a single means claim. A single means claim does not comply with the enablement requirement of 35 U.S.C. 112, first paragraph. Such a claim is unduly broad and is thus not enabled for the scope of the single means claim which covers every conceivable structure (means) for achieving the stated purpose because the specification disclosed at most only those means known to the inventor. In re Hyatt, 218 USPQ 195 (Fed. Cir. 1983). While claims drawn to means plus function limitations are permitted, the means plus function limitation, if drafted to correspond to 35 U.S.C. 112, sixth paragraph, must be an element in a claimed to a combination. (MPEP §§ 2164.08(a) and 2181.)

Therefore, claim 7 does not comply with the enablement requirement because it includes only a single means.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philippe (US-6643624).

Regarding claim 1, Philippe teaches a system and process for buyers and sellers to engage in commerce comprising central processing unit (30), software for controlling the

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processing unit (col.5-6, section 1.2, software architecture), storage means (35), server (20) for Internet-based access and use (45, col.6, line 4), means to select between a direct sales channel and indirect sales channel for completion of a transaction (the direct sales channel is discussed at col. 7, lines 11-29, and the indirect sales channel is discussed at col. 7, lines 30-60), means for buyers transmitting requests from buyer to system to seller (selecting the buy-it link initiates a request at the vendor site), and seller to buyer (confirmation information returned by the vendor (e.g., col. 8, lines 4-8).

Philippe lacks specific details about the interrelationship between the direct (buy it link to vendor) and indirect (add it link to virtual check-out counter) sales channels; however, Philippe does disclose embodiments that encompass the direct sales channel approach and the indirect sales channel approach (virtual check-out counter).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Philippe to include both direct and indirect sales channels to accommodate a buyer selecting only one product from one vendor as well as a buyer selecting products from multiple vendors.

Regarding claim 2, Philippe includes means for linking directly to seller ordering systems as mentioned at col. 7, lines 11-29.

Regarding claims 3 and 5, Philippe as applied to claim 1 above meets all of the limitations of the process claim including the single point of sale insofar as the modification of Philippe to include both a direct sales channel and an indirect sales channel.

Regarding claim 6, Philippe discloses the step of a buyer performing a search and the capability to make a selection (e.g., 314). It is inherent in the Philippe process that sellers are selected based on filter conditions because the buyer searches the information in the database to display information about a seller based on the search terms and the search terms are filter conditions.

Regarding claim 7, Philippe discloses system that includes a direct sales channel and an indirect sales channel from a single point of purchase (the direct sales channel is discussed at col. 7, lines 11-29, and the indirect sales channel is discussed at col. 7, lines 30-60).

Philippe lacks specific details about the interrelationship between the direct (buy it link to vendor) and indirect (add it link to virtual check-out counter) sales channels; however, Philippe does disclose embodiments that encompass the direct sales channel approach and the indirect sales channel approach (virtual check-out counter).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Philippe to include both direct and indirect sales channels to accommodate a buyer selecting only one product from one vendor as well as a buyer selecting products from multiple vendors.

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4. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dilger (article, Buying strategies) in view of Philippe (US-6643624).

Dilger discloses a combined direct and indirect purchase system and method (e.g., the system includes embedded workflows that route requisitions directly to the supplier or to a purchasing module for manager review, page 3, last paragraph). Dilger is silent as to the specific components of the system other than software to implement the server-based processes. The system and method include embedded workflows that route requests; therefore, Dilger is capable of being implemented at a single point of sale, as recited in claims 3 and 5-7.

Philippe teaches using a computer processor with a server to implement an Internet based software application for a purchasing system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dilger to include a central processing unit and server, such as taught by Philippe, in order to enable the software package to be implemented.

Conclusion

5. Applicant's arguments (including the affidavit filed under 37 CFR 1.132) with respect to claims 1-3 and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Makarios (WO-00/51051-A1) teaches a single point of sale clearinghouse for providing information to buyers about vendors, products, and services.

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- Dodd (US-6321211) teaches a single point of sale that includes means for buyers to select between a direct sales channel (order product) and indirect sales channel (product put into gift queue), as broadly recited in the claims.
- Clarke (US-6535857) teaches a merchant (single point of sale) that provides means for a direct sales channel (kiosk to place subscription order) and indirect sales channel (submit subscription order through retailer).
- Corvino (article, Streamlining public purchasing through e-catalogs) teaches three types of e-catalogs including supplier-hosted, third-party aggregator hosted, and buyer hosted.
- Hussain (article, Embracing the new economy) teaches business suppliers providing goods and services online in e-catalogs. Buyers post buying requirements and suppliers respond by submitting price quotes. When a buyer checks-out after placing items in an electronic shopping cart a purchase order is remitted to the supplier electronically.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tamara L. Graysay 6/13/05
Examiner
Art Unit 3623

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